

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 1, 2020 AGENDA

Subject:	Type:	Submitted By:
SECTION VIII PERSONNEL MANUAL - UPDATE W/VACATION ACCRUAL POLICY CHANGE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RANDY TRAIL, HUMAN RESOURCES DIRECTOR

SYNOPSIS

A resolution has been prepared to update Section VIII of the City's Personnel Manual. This update has been undertaken to clarify language and incorporate a policy change to the timing of the increase of vacation accrual.

FISCAL IMPACT

This resolution will have no fiscal impact.

RECOMMENDATION

Approval.

BACKGROUND

Section VIII of the Personnel Manual has not been updated since 2014. An update is necessary to clarify language and to bring old policies into compliance with current practices. In addition, a policy change has been made to provide for vacation accrual rate increases based on each employee's anniversary date rather than annually on or about January 1. This change will result in vacation accrual rate increases being applied more fairly to all employees.

A copy of Section VIII of the Personnel Manual, which indicates the edits made, has been included for review.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AMENDING SECTION 8 OF THE CITY PERSONNEL POLICY AND PROCEDURES MANUAL REGARDING VACATION ACCRUAL.

WHEREAS, the Mayor and City Council of the City of La Vista, Nebraska, has determined that a need exists to make changes to the existing La Vista City Personnel Policy and Procedures Manual as adopted on December 20, 2005; and

WHEREAS, it is being proposed that Section 8 in the manual regarding vacation accrual be amended to clarify language and incorporate a policy change to the timing of the increase of vacation accrual; and

WHEREAS, it is the desire of the City Council to amend Section 8 of the Personnel Policy and Procedures Manual to incorporate the changes to the above listed subsection;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the existing La Vista City Personnel Policy and Procedures Manual adopted on December 20, 2005, is hereby amended to reflect the proposed changes to Subsection 8 as submitted at the City Council meeting.

PASSED AND APPROVED THIS 1ST DAY OF DECEMBER 2020.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

SECTION VIII: EMPLOYEE BENEFITS

ADOPTED:	RESOLUTION NO. 96-012	AMENDED:	RESOLUTION NO. 07-100
DATE:	FEBRUARY 6, 1996	DATE:	SEPTEMBER 18, 2007
AMENDED:	RESOLUTION NO. 01-140	AMENDED:	RESOLUTION NO. 07-128
DATE:	OCTOBER 2, 2001	DATE:	DECEMBER 18, 2007
AMENDED:	RESOLUTION NO. 02-128	AMENDED:	RESOLUTION NO. 09-072
DATE:	DECEMBER 3, 2002	DATE:	AUGUST 4, 2009
AMENDED:	RESOLUTION NO. 03-072	AMENDED:	RESOLUTION NO. 14-017
DATE:	AUGUST 19, 2003	DATE:	FEBRUARY 18, 2014
AMENDED:	RESOLUTION NO. 04-126	AMENDED:	RESOLUTION NO.
DATE:	DECEMBER 21, 2004	DATE:	
READOPTED:	RESOLUTION NO. 05-159		
DATE:	DECEMBER 20, 2005		

8.1 **Request for Leave:** An employee wishing to take any type of leave shall first submit a Request for Time Off form approval to the department head and/or City Administrator through the Time Management System for approval. This requirement applies to all types of leave.

(1) Sick Leave for Employees Hired Before January 1, 2005 Who Have Not Elected to Waive Their Eligibility for Emergency Sick Leave:

Full-time regular employees shall accrue entitlement to paid sick leave at the rate of ten (10) hours for each full calendar month of employment. Full-time regular employees shall be allowed to accrue unused sick leave from previous years to a maximum of 880 sick leave hours. An employee shall be credited with one (1) hour of annual vacation leave for each eight (8) hours of sick leave which would otherwise be earned but for the maximum allowable accumulation of sick leave, unless the employee elects to waive his/her eligibility for emergency sick leave.

Earned sick leave may be used for absence necessitated by illness, injury or quarantine. Employees may use sick leave as accrued during the initial probationary period. Paid sick leave may also be used to keep medical or dental appointments. Paid sick leave may also be used for illness in the immediate family to a maximum of five (5) work days in each calendar year.

Paid sick leave shall be used by employees in one hour increments. No full-time non-exempt employee shall be allowed paid sick leave until the department head has approved the sick leave and certified the employee's request to the City Administrator the leave has been approved in the Time Management system for approval. No full time exempt employee shall be allowed paid sick leave until the City Administrator has approved the sick leave request. Any full-time employee claiming paid sick leave may be required by the department head and/or the City Administrator to provide a certificate signed by a physician stating the nature and extent of illness.

Paid sick leave shall not be allowed in advance of accumulation. Abuse of paid sick leave may result in disciplinary action. All cases of possible sick leave abuse shall be investigated.

Emergency Sick Leave: All paid sick leave days which would otherwise be earned but for the 880 hours maximum allowable accumulation shall be credited to emergency sick leave accounts

established for full-time exempt and full-time non-exempt employees, less any time of the employee credited to vacation leave (namely eight (8) hours of sick leave time which would otherwise be earned but for the maximum allowable accumulation shall be credited as one (1) hour vacation time for the employee and seven (7) hours credited to the appropriate emergency sick leave account). There are two separate emergency sick leave accounts, one for all full-time exempt employees and one for all full-time non-exempt employees. There are not separate accounts for each individual exempt or non-exempt employee. The accounts are only inclusive of hours contributed by current, eligible employees. Emergency sick leave may be allowed to any regular full-time exempt or non-exempt employee after the employee has exhausted his/her individual paid vacation leave, personal leave and sick leave. Allowance of use of the appropriate emergency sick leave account is granted by the emergency sick leave committee for that account.

The emergency sick leave committee for exempt and non-exempt employees shall consist of the City Clerk, the Finance-Human Resources Director, and the requesting employee's Department Head. If the requesting employee is a Department Head, the City Administrator shall participate in the emergency sick leave committee. Employees are required to complete and sign a Sick Bank Request Form and a HIPAA waiver.

The emergency sick leave committee shall regulate the use of emergency sick leave from the reserve. Only employees meeting the established criteria will be processed through the emergency sick leave committee. Prior to allowing use from the reserve, the committee must determine that the applicant has exhausted his/her individual paid vacation, personal, and sick leave accrual and that an emergency situation exists as defined herein. The committee shall determine the number of hours of emergency sick leave to be granted and shall report the same to the City Council and City Administrator. No employee having less than 880 hours of accrued individual sick leave may contribute sick leave hours to an emergency sick leave account.

An "emergency situation" is a set of circumstances respecting which the appropriate committee determines that an employee, due to serious illness, serious injury or other serious medical, physical or mental condition of the employee, reasonably has an extraordinary need for more time off than he or she has available in any form of paid leave days, and that the employee has previously been conscientious and judicious in the use of his or her paid sick leave. It does not include any illness or injury that typically would be expected to cause the employee to be unable to work a duration of less than five weeks (35 consecutive calendar days).

Provisions of the Worker's Compensation law shall apply where illness or injury occurs on the job.

A full time regular employee who is not a member of the Fraternal Order of Police collective bargaining unit would have had to submit a written request to the City Clerk prior to January 31, 2005, to waive their eligibility for emergency sick leave. Upon submission of said written request, the employee became subject to subsection 8.1(2) for all accrual and payout of sick leave.

(2) Sick Leave For Employees Hired Prior to January 1, 2005 Who Have Elected to Waive Their Eligibility for Emergency Sick Leave and For Employees Hired On or After January 1, 2005:

Full-time regular employees shall accrue entitlement to paid sick leave at the rate of ten (10) hours for each full calendar month of employment. Full-time regular employees shall be allowed to accrue unused sick leave from previous years to a maximum of 880 sick leave hours. Unless otherwise established by a collective bargaining agreement, no sick leave accrual or vacation credits are earned by any employee at the maximum of 880 accrued and unused sick leave hours.

Earned sick leave may be used for absence necessitated by illness, injury or quarantine. Employees may use sick leave as accrued during the initial probationary period. Paid sick leave may also be used to keep medical or dental appointments. Paid sick leave may also be used for illness in the immediate family to a maximum of five (5) work days in each calendar year.

Paid sick leave shall be used by employees in one hour increments. No full-time ~~non-exempt~~ employee shall be allowed paid sick leave until ~~the leave has been approved in the Time Management system~~~~the department head has approved the sick leave and certified the employee's request to the City Administrator for approval~~~~. No full time exempt employee shall be allowed paid sick leave until the City Administrator and/or the department head has approved the sick leave request~~. Any full-time employee claiming paid sick leave may be required by the department head and/or the City Administrator to provide a certificate signed by a physician stating the nature and extent of illness.

Paid sick leave shall not be allowed in advance of accumulation. Abuse of paid sick leave may result in disciplinary action. All cases of possible sick leave abuse shall be investigated.

Emergency Sick Leave: In lieu of an emergency sick leave program, employees in this category are eligible for an alternate sick leave payout schedule as outlined in Section 7.21, Termination Pay.

Provisions of the Worker's Compensation law shall apply where illness or injury occurs on the job.

(3) Vacation Leave

Regular employees working a minimum of 20 hours per week earn vacation leave.

A. Vacation Leave Accrual

(1) Regular Exempt Employees

During the first year of employment, full-time exempt employees accrue vacation leave at the rate of 80 hours per year. On each anniversary of continuous employment from the hire date. Thereafter, employees accrue an additional 8 hours of vacation per year, up to a maximum accrual rate of 208 hours (26 days) per year.

(2) Regular Non-Exempt Employees

During the first year of employment, full-time non-exempt employees accrue vacation leave at the rate of 48 hours per year. On the first anniversary of continuous employment from the hire date, the accrual rate increases to 88 hours per year. On each anniversary hire date of continuous employment thereafter, employees accrue an

additional 8 hours of vacation per year, up to a maximum accrual rate of 184 hours (23 days) per year.

(3) Regular Part-Time Employees

Regular part-time employees who work a minimum of 20 hours per week accrue vacation leave at the rate of 40 hours (5 days) per year.

Vacation leave is accrued on a bi-weekly basis. Eligible employees can accrue a maximum of 220 hours of vacation leave. Once the maximum is reached, further accrual ceases until the accrued time drops below 220 hours, at which time the accrual commences again.

B. Use of Vacation Leave

No vacation may be taken until an employee has successfully completed six (6) months of continuous employment. Vacation leave may be scheduled or taken only with the approval of the employee's supervisor and/or department head. Vacation is only approved when it will not disrupt the work schedule of the department concerned and/or the operation of the City.

Vacation cannot be used in increments of less than one hour. Use of vacation leave in increments of less than four hours must be approved at least 48 hours in advance and may be taken only at the beginning or at the end of the employee's workday.

If a designated holiday falls during an employee's vacation, the day will not be charged as vacation time. An employee who leaves the employment of the City will receive a payout for accrued vacation leave on their last paycheck.

This policy does not apply to employees who are members of the Fraternal Order of Police. FOP members accrue and use vacation leave according to terms specified in the FOP contract.

Vacation Leave: All full-time employees and permanent part-time employees working a minimum of twenty (20) hours per week shall earn paid vacation time as provided herein with the exception of employees subject to the paid vacation leave provisions of the La Vista FOP contract or the Public Works employees' contract.

Exempt Employees: During the first year of employment, all full-time exempt employees shall earn eighty (80) hours of paid vacation time per year. No vacation may be taken until the employee has successfully completed six months of continuous employment with the City. For continuous employment with the City thereafter, an additional eight (8) hours of paid vacation time is earned at the beginning of each calendar year for each additional year of service. All paid vacation time is accrued on a bi-weekly basis. The total paid vacation time earned per year shall not exceed 26 days (208 hours).

Non-exempt Employees: During the first year of employment, all full-time non-exempt employees shall earn forty-eight (48) hours of paid vacation time. No vacation may be taken until the employee

~~has successfully completed six months of continuous employment with the City. Starting the second year of continuous employment, paid vacation time will be earned at a rate of 88 hours per year. For continuous employment with the City thereafter, an additional eight (8) hours of paid vacation time is earned at the beginning of each calendar year for each additional year of service. All paid vacation time is accrued on a bi-weekly basis. The total paid vacation leave earned per year shall not exceed 23 days (184 hours).~~

~~Permanent Part Time Employees: After successful completion of six (6) months of continuous employment, permanent part time employees who work a minimum of twenty (20) hours per week shall earn forty (40) hours of paid vacation time per year. All paid vacation time is accrued on a bi-weekly basis. The total paid vacation time earned per year shall not exceed 5 days (40 hours).~~

~~Exempt, Non-exempt, and Permanent Part Time Employees shall be allowed to accrue unused vacation leave from previous years to a maximum of 220 hours.~~

Use of Vacation Leave:

- ~~(a) Vacation leave may be scheduled or taken only with the approval of the employee's department head and/or the City Administrator.~~
- ~~(b) Vacation leave will only be approved if it will not be disruptive to the work schedule of the departments concerned and/or the operations of the City.~~
- ~~(c) Upon satisfactory completion of six months of continuous employment, regular full time employees and permanent part time employees shall be entitled to begin using earned vacation leave. Vacation shall not be used in increments of less than one hour. Use of vacation leave in increments of less than four hours must be approved at least forty eight (48) hours in advance and may be taken only at the beginning or at the end of the employee's work day.~~
- ~~(d) If a day designated as a paid holiday for the employee falls during an employee's vacation, the day shall not be charged as vacation time. An employee who leaves the employment of the City shall be compensated for vacation leave earned and accrued as provided herein.~~

(4) Personal Leave and Funeral Leave:

- (a) Personal Leave:** A permanent regular full-time employee shall be eligible for two (2) days of paid personal leave per City fiscal year, beginning after the successful completion of six months of continuous service with the City. Personal leave shall not be accrued, and personal leave not used by the end of the final full pay period in the fiscal year (September) for which it is allowed shall be forfeited; provided, however, that the City Administrator may allow a new employee an extension of time within which to use personal leave time, not to exceed six (6) months after the eligibility date.
- (b) Family Funeral Leave:** A permanent regular full-time employee shall be eligible for paid leave to attend the funeral of a member of the immediate family of the employee, up to but not exceeding five (5) days. An employee may request family funeral leave for a relative not

included in the definition of "immediate family". These requests will be considered by Department Heads who shall have the authority to grant or deny said leave. Funeral leave shall not be granted for any other purpose and shall not be accrued. Eligibility begins after the successful completion of six months of continuous service with the City.

(c) Non-Family Funeral Leave: A permanent regular full-time employee may be allowed paid leave to attend the funeral of an acquaintance/friend. Such leave shall not exceed four (4) hours per funeral, or twelve (12) hours per calendar year. In all cases, the employee must describe his/her relationship with the deceased. Department head and/or City Administrator approval is required for non-family funeral leave. Eligibility begins after the successful completion of six months of continuous service with the City.

(d) Personal Leave and Funeral Leave shall be used in one hour increments.

(5) **Military Leave of Absence:**

(a) Military Leave Pay

(1) State of Nebraska Non-Emergency Active Service: See Subsection 7.~~23-22~~(1) of this Manual.

(2) State of Nebraska Emergency Active Service: See Subsection 7.~~23-22~~(2) of this Manual.

(3) In any case in which this Personnel Manual or Nebraska law require the City to pay an employee respecting an absence due to military service, the calculation will be made based upon the actual number of hours of City work and City pay actually missed by the employee on the actual day(s) the employee was absent due to such military service. The foregoing shall apply whether the employee's absence is for nonemergency military service requiring the City to pay the employee full City pay for up to a certain number of hours in any one calendar year or whether the employee's absence is for a state of emergency leave of absence requiring the City to pay only the difference between the state active service base pay actually earned and the City pay the employee would have earned had the employee not been absent. See Section 7.~~23-22~~ of this Manual.

(4) Federal Service.

(A) Employees who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve or Coast Guard Reserve may take Military Leave when ordered into or employed in the military service of the United States (i.e., the federal government). See Section 7.~~23-22~~ of this Manual.

(5) Continuation of an employee's pay by the City during periods of Military Leave is governed by Section 7.~~23-22~~ of this Manual.

(6) The intention of the above Military Leave pay provisions is to assure that employees receive all pay due to them under Sections 55-160 and 55-161 of the Nebraska Revised

Statutes. The City does not pay employees with respect to periods of Military Leave, except as provided in such statutes or as otherwise required by law.

(b) Reemployment After Military Leave

- (1) All employees who take Military Leave (other than for State of Nebraska emergency active service, which is addressed in the next subparagraph) are entitled to reinstatement on return from Military Leave lasting not longer than five years (except to the extent a longer period of leave may be required by federal or Nebraska law), if they gave timely notice of the active duty service (unless precluded from doing so by military necessity) and make application for reinstatement within the time and in the manner required by law. Reinstatement may be denied under this subparagraph if (A) the employee was released from military service with a disqualifying discharge or under other than honorable conditions, (B) the City's circumstances have so changed as to make such reemployment impossible or unreasonable [an example would be a reduction in work force or position elimination that would have caused the employee to lose employment], or (C) the City employment left by the employee for military service was for a brief, nonrecurrent period and the employee had no reasonable expectation such employment would continue indefinitely or for a significant period. [See Neb. Rev. Stat. Section 55-161 and 38 U.S.C. Section 4304 and 4312(a) and (d).]
- (2) Employees called to State of Nebraska emergency active service, as described in Subsection 7.~~2322~~(2) of this Manual, shall be entitled to reinstatement upon release from such State of Nebraska emergency active service, if they promptly return to City employment on release from such military service.
- (3) Time spent on Military Leave shall be counted as service to the City for computing seniority in the event layoff situations arise. An employee who is reemployed by the City on timely return from Military Leave is entitled to the seniority and other rights and benefits determined by seniority that the employee had on the commencement of the Military Leave plus the additional seniority and rights and benefits that the employee would have attained if the employee had remained continuously employed without taking Military Leave. [See Neb. Rev. Stat. Section 55-161 and 38 U.S.C. Section 4316.]
- (4) If the City position vacated by the employee taking Military Leave no longer exists at the time the employee seeks to timely return to work for the City, the employee shall be entitled to re-employment in another existing position of the same class, if such re-employment does not necessitate the laying off of another employee with greater seniority.
- (5) An employee returning from Military Leave may be employed at the same step of the salary range attained when granted a Military Leave. The employee may be eligible for a merit pay increase upon completion of one (1) year of service, which shall include the time between the employee's last merit increase and the date the employee's Military Leave commenced.

- (6) An employee having accrued vacation on departing the service of the City to take Military Leave may elect to be paid such accrued vacation, on departure for Military Leave, as if the employee were permanently separating from the service of the City.
- (7) The foregoing provisions on Reinstatement After Military Leave set forth minimum entitlements in the situations to which they apply. In particular circumstances, the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. sections 4301 et seq., may entitle the employee to greater rights of reinstatement. The City will in each case extend to the employee the benefit which under state or federal law is more generous to the employee.
- (8) The employment rights and interests of an employee who is hired for or promoted, transferred or assigned to a position, to which position an employee on Military Leave has reinstatement or reemployment rights under this Manual or by law, are subject and subordinate to such reinstatement or reemployment rights of the employee on Military Leave.

(6) **Civic Duty Leave:** If an employee is summoned or appointed to jury duty or election duty, the employee shall be entitled to Civic Duty Leave as necessitated to permit the employee to perform such civic responsibilities, if the employee gives reasonable notice to the City of such summons or appointment. (Cross Ref.: Neb. Rev. Stat. §§ 25-1640, 32-241 and 32-1517.).

For periods of Civic Duty Leave, an employee shall be paid by the City the difference between the employee's City base rate of compensation and the jury or election duty pay, other than expenses, received by the employee. An employee may elect to continue receiving his/her full rate of City compensation by notifying the City Clerk in advance that the employee agrees to remit to the City all jury or election duty pay, other than expenses, received by the employee.

(7) **Civil Emergency Leave:** A permanent full-time regular employee may apply to the City Administrator for Civil Emergency Leave when there is a state or national incident of such significance as to require a political subdivision to seek assistance of other public entities. In determining whether Civil Emergency Leave will be granted, the City Administrator will consider whether the employee's service would provide needed professional skills either as a volunteer member of a "recognized" organization or as an individual possessing the specific skills needed to respond to the civil emergency (e.g. building inspection services, clean-up services, public safety services), whether the leave would be disruptive to the work schedule of the City department concerned and/or the operations of the City of La Vista, and any other factors which the City Administrator deems relevant. While rendering services during a Civil Emergency Leave, the employee shall not be considered to be acting in the course and scope of his/her employment with the City of La Vista. If approved by the City Administrator, such leave would provide for the following:

- a. Civil Emergency Leave may be scheduled or taken only with the advance written approval of the department head concerned and the City Administrator.
- b. Civil Emergency Leave may only be taken during such time that it is not disruptive to the work schedule of the City departments concerned and/or the operations of the City of La Vista.

- c. The City Administrator shall determine the length of Civil Emergency Leave to be granted; however, in no case shall an employee be permitted more than four weeks of such leave in any one calendar year.
- d. If Civil Emergency Leave is granted, an employee would be paid by the City the difference between his/her regular rate of pay for 40 hours per week and any amount of compensation he or she receives from any other source as pay for the services rendered during such Civil Emergency Leave (not including reimbursement for travel, lodging or meal expenses). An employee may elect to continue receiving his/her full rate of pay from the City by notifying the City Clerk in advance that the employee agrees to remit to the City any amount of compensation (less expenses) he or she receives for the services rendered or by providing documentation to the City Clerk that he or she will receive no compensation (other than reimbursement of expenses) for the services rendered. The employee would continue to earn and accrue City vacation, sick, and personal leave hours at the usual rates. The employee would not be eligible for overtime pay during said leave.
- e. The employee would be maintained on the City's health, dental and life insurance coverages.
- f. The employee would not be maintained on the City's workers' compensation coverage during Civil Emergency Leave.
- g. Prior to returning to work, the employee shall be required to disclose any compensation received and/or any injury suffered in connection with the Civil Emergency Leave, in a manner prescribed by the City Administrator.

Civil Emergency Leave shall not be granted for any other purpose and shall not be accrued. Eligibility begins the date immediately following the successful completion of the initial or extended probationary period.

- (8) **Leave of Absence Without Pay:** A leave of absence without pay may be granted to a regular employee for a period not to exceed ninety (90) calendar days by the City Administrator. In considering a request for such a leave of absence, the City Administrator will consider whether the requested leave would be disruptive to the work schedule of the City department concerned and/or the operations of the City of La Vista, and any other factors which the City Administrator deems relevant. During such a leave, the employee must pay for all employee benefits the employee wishes to retain (e.g., insurance) while on leave. Upon expiration of leave of absence without pay, the employee shall return to work in the position held at the time that leave was granted. Failure without good cause to report promptly when the leave has expired shall be considered as a resignation.
- (9) **Absence Without Leave (AWOL):** Any unauthorized absence of an employee from duty without prior permission, where the circumstances allowed the employee time to request permission by telephone or otherwise, shall be deemed to be an absence without leave and may result in disciplinary action by the City Administrator. Any employee who is absent for three (3) or more days without notice and authorized leave shall be deemed to have resigned. However, the City Administrator may grant leave with or without pay if he or she determines extenuating circumstances existed.
- (10) **Family and Medical Leave:** This section implements the City's policy under the federal Family and Medical Leave Act (FMLA). An employee who has been employed by the City for at least

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twelve months (which need not be consecutive), and who has worked at least 1,250 hours of service during the 12 consecutive months immediately preceding the requested commencement date of family or medical leave, may be granted up to twelve weeks of family or medical leave during an applicable 12-month period for certain family or medical reasons. An "applicable 12-month period" means the rolling 12-month period measured backward from the date the employee uses any family or medical leave.

Family or medical leave may be used:

- (a) For the birth or adoption of a child or the placement of a child with the employee for adoption or foster care;
- (b) To care for the employee's spouse, parent or child who has a serious health condition; or
- (c) When a serious health condition of the employee prohibits him/her from performing an essential function of his/her job.

If necessary, leave may be taken intermittently or on a reduced work schedule for medical care and treatment. If both spouses are employed by the City, they may only take a combined total of twelve weeks during an applicable 12-month period for the birth or adoption of a child or for placement of a child with the employee for adoption or foster care. However, each such employee will remain entitled to use the balance of his or her twelve weeks of leave during an applicable 12-month period for other circumstances qualifying for family or medical leave.

Whenever practical, the employee shall provide the City at least thirty (30) days notice of any need for family or medical leave. When such notice is not practicable, the employee shall give notice of the need for leave to the City as soon as practicable under the circumstances.

When an employee gives the City notice of the need for or requests family or medical leave, or when the City otherwise acquires notice that leave is being taken or used for purposes which qualify for family or medical leave, including absences covered by workers' compensation (if qualifying for family or medical leave), the City ClerkHuman Resources Department will provide the employee with a notice containing the information required by the FMLA regulations [29 C.F.R. Section 825.301(b)]. Such notice shall be given by the City ClerkHuman Resources Department within a reasonable time after the City receives notice of the need for or applicability of family or medical leave, and within one or two business days if feasible. Such notice shall be given by the Human Resources Department City Clerk no less often than the first time in each six-month period that an employee gives notice of the need for family or medical leave or of facts or circumstances to which family or medical leave would apply. When possible, an employee on FMLA leave shall contact his/her supervisor weekly to update the supervisor on the status of the employee's family or medical leave and the employee's intent to return to work.

An employee may be required to provide medical certification from a health care provider in connection with a request for family or medical leave due to a serious health condition of the employee or of his/her spouse, parent or child. (Copies of the medical certification form, and of a U.S. Department of Labor "Fact Sheet" explaining the FMLA, may be obtained from the Human

| **Resources Department****City Clerk**.) At its option, the City may require a second medical opinion at the City's expense.

Normally, family or medical leave is unpaid leave. However, to the extent permitted by the FMLA and FMLA regulations, all forms of paid leave (including accrued sick leave, personal leave and vacation leave) must be substituted for unpaid family or medical leave before unpaid leave may be taken. Paid leave which is so substituted will correspondingly reduce the employee's entitlement to unpaid family or medical leave.

On return to work at or before the expiration of the employee's entitlement to family or medical leave, the employee will be placed in the same position held previously (or an equivalent position) with the same rate of compensation and benefits. However, reinstatement may be denied under certain circumstances to a "key" employee, as defined in the FMLA and FMLA regulations.

The City will continue to provide health, life and dental insurance benefits to an employee who is on family or medical leave taken under the FMLA, provided the employee was receiving such benefits immediately prior to the FMLA leave. However, no other benefits will accrue during unpaid periods of family or medical leave. Respecting any unpaid periods of family or medical leave, the employee must reimburse the City, on a monthly basis, any costs of such insurance coverages which are normally paid by the employee while the employee is not on leave.

If an employee does not return to work for the City at or before the expiration of the employee's entitlement to family or medical leave, or informs the City that he or she does not intend to so return, the employee's insurance coverage shall cease and the employee shall reimburse the City for all insurance costs (both normally City-paid and normally employee-paid) which were incurred during periods of unpaid family or medical leave. However, if an employee does not return to work at the end of a family or medical leave due to reasons beyond the employee's control, or due to the continuation, recurrence or onset of a serious health condition which would entitle the employee to FMLA leave, the City shall not require reimbursement of normally City-paid health insurance costs incurred respecting the leave period. Only an employee who returns to work for at least thirty (30) calendar days will be considered to have "returned" to work for purposes of this paragraph.

Nothing in this Section shall be interpreted to entitle any employee to any benefit greater or more favorable to the employee than is required by the FMLA. This Section shall be interpreted consistently with 29 CFR Part 825.

8.2 **Temporary Limited Light Duty (TLD):** When the City Administrator determines that it is practicable to do so, the City Administrator in consultation with Department Heads will endeavor to identify and assign temporary limited light duty work (TLD) to an employee who is temporarily unable to perform any essential function of his or her regular position as a result of a work-related or non-work-related injury or illness. If so identified and assigned, a TLD assignment shall be temporary only and intended to enable the employee to return to his/her regular position as soon as possible.

(1) Temporary Limited Light Duty Work Assignment.

a. The City will endeavor to return employees to gainful employment as soon as possible

by exploring possible TLD assignments; however the City does not guarantee the availability of light-duty work.

- b. TLD assignment is not in any manner intended to be a permanent duty assignment.
- c. TLD assignment will be made only if productive work contributing to the efficient and effective operation of City government is available. A TLD assignment will not be made or continued if the City Administrator determines the assignment would unfairly require another employee to perform a substantially disproportionate share of the more difficult or least desirable types of work.
- d. If TLD work is available, any of the following arrangements may be made:
 - (1) The employee may return to his or her regular job with restrictions in duties;
 - (2) The employee may be assigned TLD work within the same department; or
 - (3) The employee may be assigned to TLD or other work in another department.
- e. If there are a limited number of TLD assignment opportunities available, employees recovering from work-related injuries or illnesses shall have assignment priority over employees recovering from non-work-related injuries or illnesses.
- f. If there is no TLD assignment available, an employee with a non-work-related injury or illness shall be required to utilize accrued sick, vacation, personal or compensatory leave time, or time off without pay if accrued leave has been exhausted. If the needs of the City require, a replacement may be hired to replace the employee and the employee, when able to return to work, shall be eligible for rehire to a then-vacant position.
- g. An employee who has reached maximum medical improvement and is determined to have a permanent disability (total or partial) that prevents the employee from performing an essential function of his or her current position shall not be eligible for assignment to or continuation of TLD work, but may be considered for transfer to a then vacant position.

(2) Procedures.

- a. An employee must submit a request to the employee's Department Head for a TLD assignment, together with a release for light duty work from the employee's physician that outlines the employee's work limitations and restrictions.
- b. The Department Head shall review the employee's limitations and restrictions and meet with the Human Resources Assistant to determine if an appropriate TLD assignment is available.
- c. Each TLD assignment must be approved by the City Administrator or his or her designee.

(3) Additional Provisions.

- a. A TLD assignment for an employee recovering from a non-work-related injury or illness shall not exceed sixty (60) calendar days. At the end of sixty calendar days, the employee may request to use accrued sick or vacation leave or may request leave without pay.
- b. At the end of the first thirty calendar days of a TLD assignment, an employee must present a current statement from a medical doctor stating the estimated date of the employee's return to regular duty. A TLD assignment will not be continued beyond the first thirty calendar days if the employee does not provide the required medical statement.
- c. Prior to returning to full duty, the employee must provide a statement from a medical doctor that unconditionally releases the employee to perform all essential functions of the employee's position.
- d. A TLD assignment for an employee recovering from a work-related injury or illness shall not exceed one hundred eighty (180) calendar days, unless approved in advance by the City Administrator.
- e. An employee on a TLD assignment must present, not less frequently than every thirty calendar days, a current statement from a medical doctor indicating an estimated date of the employee's ability to return to full regular duty.
- f. An employee's refusal to perform a task or job duty that is consistent with (not contrary to) the employee's medical restrictions will be treated as an act of insubordination. The employee will be directed to leave the work site and, if the employee has had an opportunity to reconsider the refusal and to explain his or her position and the insubordination is nevertheless clearly established, the employee will be placed on leave without pay. The employee may be subject to further disciplinary action as deemed appropriate by the City Administrator and/or may be directed to be re-evaluated or to provide further medical documentation to determine his or her ability to perform available TLD work tasks.
- g. An employee on TLD assignment may be assigned several types of work at various and differing locations and work times, as necessitated by changing medical restrictions, by completion of available work of a particular type, or the ability of the City to provide or continue a TLD work assignment.

(4) Anything in this policy that may conflict with any provision of the Nebraska Workers' Compensation Act or any other state or federal statute shall be applied, interpreted and deemed amended so as to be consistent with such Act or statute.

8.3 Holidays: The following days are observed as holidays by the City of La Vista:

<u>DAY</u>	<u>WHEN OBSERVED</u>
New Year's Day	January 1
Martin Luther King Day	Second or Third Monday in January as nationally designated
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday after Fourth Thursday in November
Christmas Day	December 25

- (a) When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, it shall be observed on the following Monday.
- (b) All regular full-time exempt employees of the City of La Vista, except those designated to work, shall receive holidays with pay for holidays observed by the City.
- (c) All regular full-time non-exempt employees of the City of La Vista, except those designated to work, shall receive holidays with pay for holidays observed by the City according to their scheduled shift at the time of the holiday.
- (d) Due to special or emergency needs of the City, or due to an employee's work schedule and/or work assignment, a regular full-time employee may be required by the City to work on a holiday otherwise observed by the City. When this occurs, the Department Head is to make a reasonable effort to allow such an employee a different day off with pay during the same workweek. If allowing a different day off in the same workweek is not possible, and the employee therefore does not receive alternate time off in lieu of holiday time off, the employee shall be paid eight (8) hours pay in lieu of having the day off and shall also be compensated at one and one-half times his or her regular rate of pay respecting the time actually worked on the holiday recognized by the City.

If a holiday falls on a regular full-time employee's regular day off, the employee will be entitled to eight hours pay at his or her regular rate in lieu of the holiday time off, and no alternate day or time off will be allowed in lieu of such pay, except as provided otherwise in this section 8.3 (a) for holidays falling on Saturdays and Sundays (which shall mean the Saturdays and Sundays shown on the calendar and not any other days of the week which an employee considers to be his or her "Saturday" or "Sunday").

EXAMPLE: Compare a City employee (e.g. one at City Hall) who works Monday through Friday and another employee (e.g. one at the ~~golf course Parks Department~~) who works Wednesday through Sunday. In the case of a Monday holiday, the City Hall employee receives 40 hours of pay for 32 hours of work. The ~~golf course Parks~~ employee receives 48 hours of pay for 40 hours of work. Both employees receive 8 hours of pay for 8 hours not worked.

- | (e) The City Administrator or the Department Head may disallow holiday pay if an employee is requested to work on the holiday and does not comply with such request.
- | (f) No employee will be paid for a holiday unless he/she has actually worked, if scheduled, the working day immediately preceding the holiday and the working day immediately following the holiday, except where the employee is granted special advance approval for pay for the holiday by the Department Head or City Administrator.

8.4 **Health and Life Insurance:** Regular full-time employees are eligible for enrollment in the group life, health and dental insurance programs maintained by the City. The employee portion of the cost of insurance programs, if any, as established by the Compensation Ordinance, shall be withheld from the employee's earnings as prescribed by the City Council. The conditions and provisions of the master insurance contracts and other plan documents concerning eligibility for coverages, costs of coverages, benefits covered or provided or excluded, limitations of coverage, waiting periods, claims processing procedures, etc., shall control over any contrary or inconsistent provisions in this Manual.

8.5 **Retirement Programs:** Regular full-time employees shall participate in the retirement program maintained by the City, except uniformed police officers. Employee contributions shall equal six percent (6%) of the employee's base monthly bi-weekly pay, unless a different percentage is established by the then-current compensation ordinance. The City shall contribute to the retirement program an amount equal to the minimum monthly bi-weekly contribution of each participating employee, unless a different percentage is established by the then-current compensation ordinance. Regular full-time employees may voluntarily contribute up to an additional 4% of their base monthly pay unless a different percentage is established by the then-current compensation ordinance; however, the City will not match the voluntary contribution. The City may also offers a voluntary 457 plan for regular permanent full-time and regular permanent part-time employees. Employee contributions to the 457 plan will be strictly voluntary and the City will not match an employee's voluntary contribution. Finally, the City offers a Roth IRA plan to which employees can make post-tax contributions. The City does not contribute to the Roth IRA plans. The normal retirement age is sixty-five (65). Claims for retirement benefits shall be submitted to the City Clerk Human Resources Department or other individual designated as administrator of the retirement program. Further information regarding the City's retirement program and vesting schedule are available from the City Clerk or his/her designee Human Resources Department.

Retired full-time employees of the City may participate in the City's group medical insurance program, subject to the following criteria and conditions:

- (a) Authorization under state law for cities of the first class to include retirees under their group health care plans; and
- (b) The employee retires with twenty (20) consecutive years of service as a full-time employee of the City and is not separated from employment due to disciplinary discharge; and
- (c) ~~The Mayor and City Council have authorized medical insurance coverage for full time employees of the employee's classification and the designated medical insurer contract offers coverage to qualified retirees of employee's classification; and~~
- (d) ~~The qualified retiree must be a participant in the City's applicable group medical insurance at the time of retirement; and~~

- (e)(c) The qualified retiree must elect COBRA coverage for the maximum COBRA continuation period at the time of retirement; and
- (f)(d) The qualified retiree must notify the City ClerkHuman Resources Department that he/she intends to participate in such group medical coverage OR that he/she intends to waive such coverage at least 60 days prior to the expiration of COBRA eligibility (failure of the qualified retiree to provide such notification shall bar the retiree from future participation in the City's group medical coverage); and
- (g)(e) The qualified retiree pays 100% of the premium (cost) of such retiree medical insurance; and
- (h)(f) The qualified retiree is not medicareMedicare or medicaidMedicaid eligible; and
- (i)(g) Any retiree coverage via the City's group medical insurance shall terminate upon the qualified retiree becoming medicareMedicare or medicaidMedicaid eligible.

8.6 **Worker's Compensation:** Employees of the City of La Vista are covered by Worker's Compensation and the City purchases insurance to insure this risk. Worker's compensation coverage normally provides the following for employees injured while on the job: medical and hospital services, prosthetic devices, total and partial disability benefits, benefits for injuries to specific bodily members, benefits for injuries causing death, and certain occupational illnesses.

All work-related accidents and injuries must be reported in writing to the City Clerk and Human Resources Department immediately, and not later than two days after the event. Under the Nebraska Workers' Compensation Act, an employee has the right to choose a doctor to treat the employee for a work related injury. The employee may only choose a doctor who, before the injury happens, has treated the employee or the employee's spouse, child, parent, stepchild or stepparent. The doctor chosen must have records to show that such previous treatment was provided. Employees may be required to sign an authorization verifying the previous treatment. All employees shall be required to choose a doctor on the official "Form 50" of the Nebraska Workers' Compensation Court.

Under current workers' compensation law, workers' compensation does not provide any wage replacement benefits to an employee for or during the first seven calendar days of disability, even though the disability is otherwise covered by workers' compensation. During that seven days period, an employee may use his or her earned but unused paid sick leave, personal leave or vacation leave to the extent necessary to avoid or reduce interruption of income. [After a disability absence covered by workers' compensation has continued for six weeks or longer, workers' compensation will retroactively pay the employee wage replacement benefits for the first seven calendar days period to the extent provided by law. To the extent (but only to the extent) workers' compensation retroactively makes such a payment to the employee for the first seven calendar days of disability and such payment would reduce the amount of the sick leave, personal leave or vacation leave that the employee would have needed to use during those first seven days to avoid interruption of income during those seven days, the City will restore to the employee the excess sick leave, personal leave or vacation leave used by the employee during the first seven days. First Example: If workers' compensation retroactively pays the employee two-thirds (the equivalent of 26.66 hours) of the employee's normal weekly wages for the first seven calendar days of disability, and the employee initially used 40 hours of vacation during those seven days to avoid interruption of income, the City will restore 26.66 hours of vacation to the employee. The employee needed to use the other 13.34 hours of the 40 hours of vacation leave, plus the 26.66 hours equivalent paid by workers' compensation, to avoid interruption of income. Second Example: If

workers' compensation retroactively pays the employee two-thirds (the equivalent of 26.66 hours) of the employee's normal weekly wages for the first seven calendar days of disability, and the employee initially used 25 hours of sick leave during the seven days period and had no other earned but unused sick leave, vacation leave or personal leave available to him or her during those first 7 calendar days, the City will restore 11.66 hours of sick leave to the employee. The employee needed to use the other 13.34 hours of the 25 hours of sick leave, plus the 26.66 hours equivalent paid by workers' compensation, to avoid interruption of income.]

Following the first seven calendar days of workers' compensation-covered disability, the employee may use his or her earned but unused paid sick leave, personal leave or vacation leave, until such leaves are exhausted, to the extent necessary to avoid or reduce interruption of income. This means that those types of leave may be used in such amounts as will be sufficient, when combined with workers' compensation benefits received by the employee, to represent total monthly payments to the employee equal to the employee's monthly rate of base pay. After earned but unused paid sick leave, personal leave and vacation leave have been exhausted, the employee will receive only the workers' compensation benefits to which he or she may be entitled by law (unless the employee is eligible to apply for an allowance of emergency sick leave and the appropriate emergency sick leave committee grants the employee an allowance from the emergency sick leave account administered by such committee).

State statutes currently require that a sworn police officer suffering a temporary disability in the line of duty be paid his/her full wages ("City Wage Continuation") during continuance of the temporary disability for not more than twelve months or until the disability has been determined to have become permanent, whichever is earlier. Any workers' compensation benefits received by the officer during that period are deducted from the City Wage Continuation. In addition, all earned but unused paid sick leave, personal leave and vacation leave must be used to supplement the workers' compensation benefit and offset any wage loss before City Wage Continuation begins. [Cross Ref. Neb. Rev. Stat. §§ 16-1011 and 16-1012.]

- 8.7 **Rest Periods:** Scheduled rest periods are designated by the department head with the approval of the City Administrator, and may be changed by the department head as needs of City business may dictate, except that any permanent change in the schedule must also be approved by the City Administrator. A fifteen (15) minute rest period shall generally be allowed to all employees during each four (4) hours of work.
- 8.8 **Health and Wellness Incentive Program:** To encourage employee productivity, the La Vista Safety Committee may develop and maintain a Health and Wellness Incentive Program for full-time and permanent part-time employees with rules and regulations subject to the approval of the City Administrator. Such voluntary program may include nominal incentives for participation as annually funded through the budget process, including T-shirts, ball caps and certificates for "time off" from work. If earned via participation in the Health and Wellness Incentive Program and subject to the established rules and regulations, an employee may receive not more than one such time off certificate, each six months, for not more than eight hours of time off and such certificate shall contain restrictions for use, and may not be accumulated over time nor exchanged or "cashed in" for wages.